



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER 08/946,710	FILING DATE 10/19/97	BRIEF	FIRST NAMED APPLICANT	S ATTORNEY/DOCKET NO.
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IM62/0727

EXAMINER  
SAYALA, C

SARAH J BRASHEARS  
MCGREGOR AND ADLER  
8011 CANDLE LANE  
HOUSTON TX 77071

ART UNIT  
1761

PAPER NUMBER  
07/27/99

DATE MAILED:

**NOTIFICATION OF DEFECTIVE NOTICE OF APPEAL OR DEFECTIVE BRIEF**

1.  The Notice of Appeal filed \_\_\_\_\_ is:
  - A.  Not acceptable for reason(s) that:
    - (1)  The Appeal fee required by 35 U.S.C. 41 (a)(6) and 37 CFR 1.17(e) was not submitted with the Notice of Appeal.
    - (2)  The submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee per 37 CFR 1.17(e) is \$\_\_\_\_\_.
    - (3)  The Appeal was not timely filed.
    - (4)  The Appeal fee received on \_\_\_\_\_ was not timely filed.
    - (5)  The Appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
    - (6)  A letter of allowance was mailed by the Office on \_\_\_\_\_.
  - B.  Defective and should be corrected as indicated. Applicant is given a TIME LIMIT of ONE MONTH from the date of this letter OR the TIME REMAINING IN THE RESPONSE PERIOD OF THE LAST OFFICE ACTION, whichever is longer, to complete the appeal. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) or (b) BUT THE PERIOD FOR RESPONSE SET IN THE LAST ACTION MAY POSSIBLY BE EXTENDED. If the appeal is not timely completed, the application will be abandoned as of the date of expiration of the period for response of the last Office action.
    - (1)  Unsigned. A ratification, properly signed, is required.
    - (2)  Identification of the appealed claim or claims is required under 37 CFR 1.191 (b).
2.  The Brief filed 6/23/99 is NOT acceptable for the reason(s) indicated below. *in The attachment*
  - A.  The Brief and/or Brief fee is untimely. See 37 CFR 1.192.
  - B.  The requisite fee which must accompany the Brief has been omitted. See 37 CFR 1.17(f).
  - C.  The submitted Brief fee of \_\_\_\_\_ is not the proper amount. The Brief fee per 37 CFR 1.17(f) is \_\_\_\_\_.
3.  The Appeal in this application is DISMISSED because
  - A.  The fee for filing the Brief as required under 37 CFR 1.17(f) was not submitted or timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - B.  The Brief was not filed, or was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
4.  As the result of the dismissal in "3" above, this application:
  - A.  is abandoned since there are no allowed claims.
  - B.  is being returned to the examiner for disposition since it contains allowed claims. Prosecution on the merits is CLOSED.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/946710      October 8, 1997

Brod, S.

[REDACTED] EXAMINER

SAYALA

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

1761

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L J DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

DEFECTIVE BRIEF

The appeal brief filed on 6/23/99 is defective because the three copies of the brief required under 37 CFR 1.192(a) have been submitted, WHICH IS SUBSTANTIALLY different from a fourth copy and it is not clear which copy should be considered. For instance, one copy states that the Appeal Brief was filed on December 1, 1998; it is 26 pages in length, does not address the double patenting or obviousness type double patenting issues. The other three copies states tha the Appeal Brief was filed 6/18/1999, is 28 pages long and addresses the double patenting and obviousness type double patenting issues. Appellant should identify and clarify which Brief is correct and to be considered.

To avoid dismissal of the appeal, appellant must submit the necessary corrected copies of the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Any inquiry concerning this communication should be directed to Examiner C. Sayala at Group 1761, telephone number (703) 308-3035. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661. The fax phone number for this Group is (703)305-3559.

C. Sayala  
Primary Examiner  
Group 1761.